already buried. *Page v. Symonds*, 63 N. H. 17. But a burial lot is regarded as property in which title may descend to heirs; *Wright v. Cemetery*, 112 Ga. 884; and there is sufficient legal possession to maintain trespass against a tort feasor. *Meagher v. Driscoll*, 99 Mass. 281. A mortgage of a burial lot is not void as against public policy. *Lantz v. Buckingham*, 11 Abb. Pr. N. S. 64. But see, *contra*, *Thompson v. Hickey*, 59 How. Pr. 434. The decision in the principal case is based upon the theory that while a burial lot is property, it has been so limited and qualified in respect to the ordinary attributes of real property as to raise a presumption that a testator would not intend that it should pass under a residuary clause.

WILLS—EXTRINSIC DOCUMENTS—INCORPORATION BY REFERENCE.—APPEAL OF BRYAN, 58 Atl. (Conn.) 748. Where a clause in a will gave a sum of money to be held in trust "for purposes set forth in a sealed letter which will be found with the will," *held*, that such words do not designate a specific existing document with such definiteness as to admit of its incorporation in the will.

There is no question but that an extrinsic paper to be incorporated in a will must be in existence at the time of the will and must be referred to therein. *In re Sunderland*, L. R. 1 P. & D. 198; *Newton v. Seaman's Friend Society*, 130 Mass. 91. But the amount of definiteness required in the incorporating clause is uncertain. In *Allen v. Maddock*, 11 Moore P. C. 427, parol evidence was admissible to show what paper was referred to in the will and it was no objection that other papers might have been found which would have answered the description. Similarly, *Templeman v. Martin*, 1 Nev. & Man. 576. But most courts have been reluctant to incorporate in a will extraneous papers unless they clearly are a part of the will. And as, in the present case, the reference must be certain as to the exact paper and as to its existence at the time of the will. *In re Smart*, 1902 L. R. P. D. 238; *Estate of Young*, 123 Cal. 342; *Phelps v. Robbins*, 40 Conn. 273.

WILLS—FORFEITURE CLAUSE—STIPULATION AGAINST CONTEST.—IN RE FRIEND'S ESTATE, 58 Atl. 853 (Pa.).—*Held*, that a provision in a will, annulling a bequest if the validity of the instrument be attacked by the legatee, is inoperative if there is probable cause for instituting such contest. Mitchell, C. J., and Potter, J., *dissenting*.

There is a wide diversity of opinion upon this question. In support of the decision in the principal case it is urged that to exclude all contests when reasonable ground exists for believing that the testator was insane or unduly influenced at the time of making the will is to intrench fraud and coercion. *Lee v. Colston*, 5 T. B. Mon. 246; *Jackson v. Westerfield*, 61 How. Prac. 399. Squarely opposed to these authorities, however, is the weight of opinion in the United States. *Rogers v. Law*, 66 U. S. 253; *Bradford v. Bradford*, 19 Ohio St., 546; *Breihaupt v. Baushett*, 1 Rich. Eg. 465 (S. C.); *Thompson v. Gaunt*, 82 Tenn. 310; *Donegan v. Wade*, 70 Ala. 501; *In re Riegle's Estate*, 32 N. Y. Supp. 168. The English rule in respect to legacies treats the condition as void when there exists *probabilis causa litigandi; Morris v. Burroughs*, 1 Ath. 404; but this doctrine is denied where lands are concerned. *Cooh v. Turner*, 15 M. & W. 727. But there seems to be no substantial ground for distinguishing between real and personal property. 2 *Jarman*, 58. A suit to construe the provisions of the will does not violate the condition. *Black v. Herring*, 79 Md. 146. And such conditions are always to be construed strictly, as they divest estates already vested. *Appeal of Chew*, 45 Pa. 228.